

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Daniel P. Polka, et al., :  
Plaintiffs, :  
v. : Case No. 2:05-cv-0511  
Sally R. Oddi, : JUDGE SMITH  
Defendant. :

ORDER

On January 5, 2006, the Court noted that the defendant had never been served with the complaint, and this Court ordered plaintiff to show good cause within ten days why this action should not be dismissed, or face dismissal of this action for failure to make service pursuant to Fed. R. Civ. P. 4(m). Plaintiff has responded informally to this order, and agrees that dismissal is appropriate.

Fed. R. Civ. P. 4(m) provides:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

Because service was not made within 120 days, this action is DISMISSED WITHOUT PREJUDICE pursuant to Fed. R. Civ. P. 4(m). The Clerk shall enter judgment accordingly.

/s/ George C. Smith  
George C. Smith  
United States District Judge